

The Governor's Reserve Powers During the First State Council

REPRESENTATIVE government is inherently unstable. It must either move forward to responsible government or backwards to Crown Colony administration. The 1924 Constitution of Ceylon was no exception to this rule. A system of government where power was divorced from responsibility was not made to last. The administration of the country had come, from the British point of view, to an impasse. What actually happened was quite simple. The Legislative Councillors became conscious of their power. The Governor and the officials were not prepared to risk a crisis on individual matters, which, taken together, meant a considerable diversion from the Colonial path.

That was the situation the Donoughmore Commissioners faced. Their task was not to frame a constitution for full responsible government. Theirs was to prepare a political contrivance which, while granting some measure of responsibility, also possessed a sufficiency of stability. They attempted to create a system where official control and political freedom could live side by side. That is why, in such a scheme, the powers and position of the Governor, stand out as the barometer of political autonomy.

The Commissioners wished to place the Governor between the position of his counterpart in a Crown Colony and that in a Dominion. The distance between the two traversed the full length between subordination and autonomy. The crux of the matter lay therefore at what point he was actually placed and where he found himself in the course of time.

As a matter of fact, the powers which were recommended for him by the Commissioners were more extensive than what he possessed under the earlier constitution. This they argued was inevitable when the sphere of local autonomy was enlarged. "For", they wrote, "with every transference of responsibility to representative organs, the Governor must be given such additional reserve powers as will enable him to see that this responsibility is not wrongly exercised".¹

The Governor's hands were no doubt strengthened. But he was not expected to take the burden of government on to his shoulders. His attitude

1. p. 72, Report of the Special Commission on the Constitution (Donoughmore)

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to the transferred sphere was to be "negative rather than positive, supervisory rather than executive".² In fact he was enjoined to act accordingly in the Royal Instructions.³

The Donoughmore Report was debated at length in the Legislative Council. It had, perhaps unexpectedly, more critics than advocates. It was urged that the new scheme proposed to take away from the Legislature powers which it already enjoyed: power over public servants, finance, public security, overseas trade, volunteer corps, docks, harbours, shipping, land, buildings, matters of Naval, Aerial or Military interest and the administration of justice.⁴ It was feared that the Donoughmore diarchy was "far more dangerous and subtle than the Indian diarchy".⁵

These views of the Legislative Councillors were embodied in a number of resolutions.⁶ But when the Secretary of State gave the alternative of accepting or rejecting the scheme as a whole, it was agreed to give it a trial.

The Ceylon (Constitution) Order-in-Council, 1931, translated into legal terms the Donoughmore scheme with minor modifications. It gave extensive powers to the Governor. Subjects of administration were divided into two schedules. One was put in charge of the Officers of State. Here the responsibility of the Governor was absolute. In general, this sphere included External Affairs, Immigration, Commercial Treaties, Shipping, Public Service, Finance, Cadres of Staffs, Pensions, Income Tax, Courts, etc.⁷

To carry out these functions, he had the backing of the Officers of State and the nominated members in Council. Of these the former exercised no right to vote. The chance of his getting through measures, against the Council if need be, by the ordinary legislative process, was therefore negligible. Hence the need to buttress his responsibility with power. He had, thus, under the Order-in-Council of 1931, the power to enact Ordinances against the wishes

2. p. 78. *Ibid.*

3. Clause I. Royal Instructions 22nd April, 1931. "In all matters in which powers and functions are by that Order assigned either to the State Council or to the Board of Ministers or to the Executive Committees the Governor in the exercise of that authority which is reserved to him in relation to those matters shall give the most favourable consideration to the views expressed and to the advice tendered to him by the body in which these powers and functions reside. In all such matters he shall exercise his authority according to his own deliberate judgement but in such a manner that it shall be supervisory rather than executive . . ."

4. Legislative Council Debates (1928), pp. 1567-8, (E. W. Perera).

5. *Ibid.* pp. 1574.

6. *Ibid.* pp. 1564-5, 1575, 1622, 1909, 2029, 2047, 2097, 2101, 2110, 2117, 2121.

7. See Appendix I.

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or without the concurrence of the State Council.⁸ He could restore a vote rejected by the Legislature.⁹ He could make a charge on the revenue of the Island through his Ordinances.¹⁰ So also could Orders-in-Council.

The 'development' departments were placed under local control.¹¹ The Governor was, however, given a sufficiency of power to see that the "responsibility was not wrongly exercised" as the Commissioners thought. His assent was necessary before any bill became law.¹² His power of reservation was both discretionary¹³ and compulsory.¹⁴ The latter included subjects unknown to the 1924 Constitution. Subjects like Public Service, financial stability, defence, trade facilities, shipping and justice were new additions altogether. The Governor could refer back Ordinances with suggestions for amendment.¹⁵ He could certify a bill as "involving an important question of principle" in which case a two-third majority was needed before it became law.¹⁶ His assent could be given to a bill with the proviso that its operation shall be withheld for a period not exceeding six months.¹⁷ Bills passed by the Council and assented to by him may yet be disallowed by the Crown.¹⁸

His executive powers were no less. It was he who chose the nominated members to the State Council.¹⁹ The procedure for transacting business between the Executive Committees and the departments was of his making.²⁰ Every decision of an Executive Committee which needed the approval of the State Council demanded his sanction.²¹ His approval could be granted or withheld at his discretion. He could refer the whole or part of a report for

8. Section 22. Order-in-Council, 1931.

9. *Ibid.*

10. Section 61. Order-in-Council, 1931.

"Whenever any payment of public money shall be or shall have been authorised by this order or by any other law in force in the island other than the Annual Appropriation Law it shall be lawful for the Financial Secretary with the authority of the Governor to make any such payment . . ."

11. See Appendix 11.

12. Section 74. Order-in-Council, 1931.

13. Section 77. Order-in-Council, 1931.

14. See Appendix, 111.

15. Section 79. Order-in-Council, 1931.

16. Section 80. Order-in-Council, 1931.

17. Section 78. Order-in-Council, 1931.

18. Section 75. Order-in-Council, 1931.

19. Sections 7(c) and 12. Order-in-Council, 1931.

20. Section 39. Order-in-Council, 1931.

21. Section 46. Order-in-Council, 1931.

reconsideration to the State Council or to the Secretary of State for his approval or insist on a two-third majority on a report before his assent was granted to it.²² In an emergency he could take over any department of government.²³

If the functions assigned to the Officers of State were carried out in a watertight compartment, government would have been vitiated by diarchy. Government needed co-operation. That was forthcoming only at a price—receptiveness to Ministerial influence. This was specially so in those subjects which impinged on local autonomy. It is illustrated nowhere better than in the administration of the Public Service.

Appointments, dismissals, discipline, promotions, emoluments, pensions of certain classes of Public Servants were vested in the Governor and the Secretary of State. The Governor was also responsible for the cadre of departments.²⁴

The main bone of contention in regard to appointments was the recruitment of non-Ceylonese to the Public Service. Till 1-3-33 the Governor made the appointments without reference to the State Council. It was his practice, however, to consult the Board of Ministers when such appointments were contemplated. In 1932, when the Attorney-General was moving to recruit a non-Ceylonese for the post of Legal Draftsman, the Board of Ministers was consulted at every stage.²⁵ On 1-3-33, certain resolutions were passed by the Council which required that every recruitment of a non-Ceylonese to the Public Service should be made after a resolution to that effect had been moved in Council. The number of such resolutions give a fair index to the appointment of non-Ceylonese. In 1934 it was only 16 and in 1935 only 18.

All such March Resolutions were not accepted by the State Council. The majority however happened to go through and a few failed to pass. For instance on 21-3-34, the State Council negatived a proposal to recruit a non-Ceylonese to the post of Second Assistant Harbour Engineer.²⁶ So with a similar proposal in regard to the post of Deputy Chief Accountant of the Railway.²⁷

Rejection by the State Council was no rejection from the Public Service. In fact in almost all cases, a refusal to pass a March Resolution was followed by the appointment of the rejected Officer. That happened when the Council

22. Section 46(3). Order-in-Council, 1931.

23. Section 49(1). Order-in-Council, 1931.

24. Statement of Administration Procedure June 5th, 1931.

25. Hansard (1932), p. 249.

26. Papers Laid before the State Council of Ceylon (1934), p. 108.

27. Hansard (1933), p. 2293.

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turned down a proposal of the Executive Committee of Home Affairs in September, 1935, in regard to the post of the European Police Probationer.²⁸ A similar situation arose, again in 1935, when the post of the Mechanical Engineer in the Government Factory was being considered.²⁹

Where appointments were for posts in departments under the control of an Executive Committee, the recommendation of the Committee concerned was generally invited. Exceptions were those where written competitive examinations were held. The procedure was that when a vacancy occurred in a department, the head of that Department informed the Public Service Commission of such vacancy and made his own recommendation. The papers were then referred to the Executive Committee. The latter was given a month to come to a decision. Once the Executive Committee sent its views, it was for the Public Service Commission either to endorse these views or make counter-proposals.³⁰

It is difficult to say how often the two parties disagreed. But wherever there was a difference the Governor was given the discretion to accept either proposal. As the Commissioners argued "since the advice tendered to him may on occasion be conflicting we consider it essential in the public interest that he should retain full liberty of action".³¹

As a rule, nevertheless, the Governor accepted the views of the Public Service Commission. Till the middle of 1934, there was only one instance where the Governor upheld the decision of the Executive Committee as opposed to that of the Public Service Commission.³² It was alleged that the latter were merely translating the will of the British Colonial Office that a certain proportion of the Public Services and headships of certain departments be reserved for Europeans.³³ Yet it is important to remember that the majority of the new appointments to the Public Service was from among Ceylonese.

The transfer of temporary recruited officers to the permanent establishment was also a frequent issue. The same tendency is seen here too. As early as 1931, the Governor gave instructions that in case of temporary officers on agreement or contract with an initial salary of Rs. 3,300.00 per annum, nor renewal, extension or new agreement be made until the matter had been brought before the Board of Ministers.³⁴ Consultation did not necessarily

28. Papers laid before the State Council of Ceylon (1935), p. 595.

29. *Ibid.* p. 595.

30. Hansard (1932), p. 2957.

31. Report of the Special Commission on the Constitution, p. 60.

32. Hansard (1934), pp. 2258-2259.

33. Hansard (1933), p. 2613.

34. Hansard (1931), p. 1304.

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imply concurrence. Instances are not lacking where temporary officers were made pensionable without the approval of the Executive Committee concerned or the Board of Ministers. In the Irrigation Department, for instance, in spite of vehement protests by the Minister and his Committee, certain temporary Irrigation Engineers were made permanent.³⁵ The Governor even refused to grant the request of the Acting Minister of Agriculture and Lands to postpone his decision till he could address the Secretary of State on the subject.³⁶

Promotion of officers was a matter for the Public Service Commission. But claims of certain officers were placed before it by Ministers and their Committees. How much these representations carried weight is doubtful. A suggestion was thrown out in 1934 by a Minister that "Perhaps his chances in the Civil Service will be doomed because of the advocacy I am making on his behalf . . . My experience makes me feel that that sort of thing does happen . . ."³⁷ The Officers concerned is, however, continuing to have a very successful career. The situation of course has now changed.

Since the resolutions of 1-3-33, promotions other than normal have gone before the Board of Ministers. The R. L. Pereira Salaries Commission fixed lower scales than the existing ones. The resolutions referred to aimed at placing officers on promotions other than normal, on the Pereira scales. In the large majority of cases the decisions of the Board of Ministers seem to have been followed. Speaking late in 1933, the Financial Secretary remarked that "the number of cases in which there has been any departure from the decisions of the Board of Ministers is entirely negligible . . . there has been complete unanimity and no difference of opinion either between the Officers of State and the Board or between the Board and the Executive Committee".³⁸ Exceptions there have been. In the Ministry of Agriculture and Lands a certain Ceylonese officer who got a promotion other than normal was confirmed in 1933 on the Pereira scales. But in another department of the same Ministry in the same year an European Officer under similar conditions was given the Pre-Pereira scales contrary to the decision of the Board of Ministers.³⁹ In 1934 the Professor of Chemistry of the University College was placed on the maximum of his scale on his promotion from a Lecturership.⁴⁰

It is clear now that the ultimate say in the Public Service was retained in the hands of the Governor. In a despatch in 1933 the Secretary of State reiterated that the Governor was responsible for "ensuring and maintaining

35. Sessional Paper XVIII of 1933.

36. *Ibid.* p. 55.

37. Hansard (1934), p. 2023.

38. Hansard (1933), p. 2594.

39. Hansard (1933), p. 2665.

40. Papers laid before the State Council of Ceylon (1934), p. 25.

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the efficiency of the Public Service and for this the Governor must be the judge on all questions as to necessary numbers of staff, their emoluments and their conditions of service . . . If therefore the Governor considers that the staff of any department is insufficient or inadequately qualified for its essential duties, it will be incumbent upon him in the last resort to obtain the necessary provisions by use of his powers under Article 22 of the Order-in-Council".⁴¹ The last word was no doubt the Governor's. But his attitude and that of the Officers of State was not so much to ride rough-shod over the local representatives as to persuade them into their views. The questions at issue were invariably thrashed out in the Executive Committees and the Board of Ministers. And the influence they wielded was, beyond doubt, quite considerable.

The Financial Secretary was the final adviser in the cadre of departments and the Governor the ultimate authority. Both were susceptible to ministerial influence. In 1932, immediately following the depression, a drastic retrenchment programme of the Executive Committee of Agriculture and Lands was accepted in regard to the Forest Department.⁴² A cadre of officers being pressed upon a department contrary to ministerial wishes was the exception and not the general practice. The case of the Irrigation Department where the Governor upheld the views of the head of the department as opposed to those of the Executive Committee only proved the rule.

In regard to the Public Service the Governor was perhaps more an executive authority than a supervisory body. In fact he was not expected to be otherwise in the reserved sphere. Even then it is correct to say that in the main the views of the Board of Ministers and Executive Committees were not turned down except—

- (a) to protect the conditions of service of non-Ceylonese from changes contemplated by the Government
- (b) to assure that new situations and circumstances may not make the Public Service less profitable to existing occupants
- (c) to make appointments from among non-Ceylonese to certain sections of the Public Service. (It was alleged that a certain ratio was being maintained in certain spheres).

The methods adopted were various. Sometimes legislation was certified.⁴³ On occasion money was voted under Article 22 of the Order-in-Council. In some instances the Secretary of State was advised to use his power of appoint-

41. Hansard (1933), p. 2547.

42. Hansard (1933), p. 1498.

43. Temporary Levy on Salaries of Public Servants (Enabling) Bill, 1932.

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ment. The Pension Minute was amended to grant certain members of the European Police Force pensionable rights when they were discontinued after they had completed their periods of service according to agreement.⁴⁴

Where some measure of responsibility was granted to the local representatives, non-compliance with their wishes was, of course, not frequent. Certain of the reserved powers were never exercised during the years 1931-1936. The Governor never vetoed a single bill. He did not insist on a 2/3 majority in a single instance. No bill was withheld from operation for any period of time through his instructions on assenting. Only once did he refer back a bill for reconsideration. From the consequent amendment it appears that the reference was due to an error in the date.⁴⁵ Perhaps the reference was made on the advice of the Minister in charge. No instance is available of a single bill assented to by the Governor which was subsequently disallowed.

The power most frequently used was that of reservation. During the 1st State Council six bills were reserved in all. Of these two were private bills of no serious consequence. They were reserved for not satisfying certain technical requirements,⁴⁶ and were approved in due course. The other four were of considerable importance. One bill purported to give relief to judgment debtors. It was controversial from the beginning. The Board of Ministers was divided on the issue. The bill passed its third reading with a majority of only one. Ultimately the King in Council vetoed the Bill.⁴⁷ The Governor also reserved a bill for the "Systematic Development and Alienation of Crown Land". He was perhaps acting on the Royal Instructions. The Bill, however, was subsequently assented to.⁴⁸ The other two affected the Elections Order-in-Council 1931 and the incidence of Estate Duty and both were approved in 1936.⁴⁹

On two occasions the Governor legislated against the wishes of the State Council. One was in connection with a bill to make a levy on salaries of Public Servants. The State Council insisted on including a clause which would require approval of the Council of every order made under the Bill. The Governor

44. Hansard (1933), p. 478.

45. Papers laid before the State Council of Ceylon (1932), p. 53.

46. (a) An Ordinance to amend the Ceylon Chamber of Commerce Ordinance of 1895 of 21-7-32.

(b) An Ordinance to amend the Ordinance regulating the Temporal Affairs of the Presbyterian Church in Kandy. The above Ordinances did not comply with Clause VI of the Royal Instructions.

47. Papers laid before the State Council of Ceylon (1933), p. 2.

48. *Ibid.* (1935), p. 318.

49. *Ibid.* (1936), pp. 14-15.

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on instructions from the Secretary of State refused to acquiesce.⁵⁰ The other was when he carried through an amending Income Tax Bill to exempt certain sterling loans prior to 1931 from liability to tax.⁵¹ Both these were carried out under provisions of Article 22 of the Order-in-Council. Except therefore in the case of the Judgment Debtors' Bill which had large socio-economic consequences, reservation was an instrument to safeguard the Public Service, Sterling loans and such interests of Imperial concern.

Every year the Governor used his powers of certification to provide money for certain types of services contrary to the wishes of the Legislature. The exercise of this power was almost wholly for three purposes—

- (a) To provide for passage allowances and holiday warrants for officers of the Public Service. The question had a rather long history. The Board of Ministers contended that the privilege was purely temporary. In times of depression like the early thirties, they argued, the whole thing ought to be reconsidered. The Officers of State, the Governor and the Secretary of State urged that this was the general practice in every Colonial Service. Anyhow the inclusion of the word "practice" in Article 87(1) of the Order-in-Council was deemed to give legal validity to the official contention. That was a view which the local representatives refused to accept. Consequently the Board of Ministers deleted a big portion of the sums asked for, for this purpose, from every budget. Every year also the Governor presented Supplementary Estimates to cover the balance and carried them through under Article 22.
- (b) Secondly the power was used to make provision for appointments not agreed to by the Board of Ministers and/or the State Council. Thus in 1933, the salary of the Works Manager, Government Printing Press had to be restored.⁵² Similar action was taken in regard to the salaries of the Irrigation Engineers in 1934.⁵³
- (c) Thirdly, the salaries of those officers on promotion, who were placed on scales not agreed to by the Board of Ministers, were paid under cover of this provision. Naturally the question arose after 1-3-33. Such was the provocation in 1933 for a Supplementary Estimate to cover the salary of the Government Assessor,⁵⁴ and in 1934 the

50. Hansard (1932), pp. 466-467.

51. Papers laid before the State Council of Ceylon (1932), p. 184.

52. *Ibid.* (1933), p. 120.

53. *Ibid.* (1934), p. 24.

54. Hansard (1933), p. 556.

salary of the Professor of Chemistry of the University College.⁵⁵
The power to certify money votes was, therefore, for all practical purposes, the appendage to the responsibility for the Public Service.

These Supplementary Estimates covered fairly big sums. Sometimes over Rs. 700,000.00 were involved in one year.⁵⁶ It was possible for the Governor to do this without going in for additional taxation. If that happened the situation would have taken a serious turn. It was avoided, because the heads of departments had the discretion to transfer sums between items of the same sub-head with the concurrence of the Financial Secretary. Where the latter and the head of a department were agreed big sums could be saved. The Executive Committee of Home Affairs may want to regulate the number of European Police Sergeants. But if the Inspector-General of Police and the Financial Secretary decided that an increase was necessary there was nothing to prevent them from carrying their decision through. In fact, this was how the passage allowances were paid year in and year out.⁵⁷

One of the objections to the Donoughmore scheme was that in "countries where responsible government has been granted, it is not the practice for executive functions of Ministers or Executive Committees to be ratified at every turn".⁵⁸ It was feared that the "paramount importance" clause extended to the executive sphere as well.⁵⁹

All these fears, however, did not materialise. Firstly the number of Executive Committee Reports that were presented to the State Council fell far short of expectations. During the second State Council the practice fell into abeyance. Even in the first the tendency was obvious. The Council did "the same amount of executive work we did in the last Council—the presentation and consideration of supplementary estimates and expenditure of that kind with now and then a report from a Committee. For every report submitted to this Council by an Executive Committee, there are hundreds of acts done by Ministers that are never submitted to this Council".⁶⁰

For the first five years only 105 reports were presented from all the seven Executive Committees averaging 3 reports an year from each Committee. The earlier reports sometimes tended to ask permission for purely administrative acts. Later only big issue of policy were so submitted.

55. Papers laid before the State Council of Ceylon (1934), p. 25.

56. *Ibid.* (1934), p. 25.

57. Hansard (1933), p. 1391.

58. Legislative Council Debates (1928), p. 1587 (Jayah).

59. *Ibid.* (1928), p. 1590 (Duraismy).

60. Hansard (1934), p. 1718 (G. K. W. Perera).

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The paucity of reports restricted the province within which the Governor could exercise his powers of ratification. His discretion was potentially reduced.

Even where reports went up to him, he did not refuse assent in a single instance. Nor did he ask for a 2/3 majority in a single case. Ratification was almost automatic. In 1931, however, he held over a joint report of the Executive Committees of Agriculture and Lands and Labour, Industry and Commerce. This he did on the advice of the Minister of Agriculture and Lands.⁶¹ Subsequently the report was ratified though under certain conditions.⁶² The Land Development Ordinance of 1934 was based on a report. With this the Governor agreed on principle. To be doubly sure the report was submitted to the Secretary of State who gave his consent to the scheme.⁶³ Except in these few cases approval was not even postponed.

Prior to 1931, the executive functions of the Governor were carried out with the advice of the Executive Council. With the transference of power and of responsibility to the local representatives such functions as came within the latter sphere were devolved upon the Executive Committees. Devolution though the general rule was not the universal principle. Certain executive powers remained with the Governor though they referred to subjects within the purview of the Executive Committees. That was so with Police.

The Police Ordinance No. 3 of 1903 (i.e. relating to the repression of crime) gave certain powers to the Governor in Executive Council. This power was not delegated by publication in the *Gazette* under Article 93 of the Order-in-Council. That was why the Governor retained the right to exercise his discretion on the issue of the punitive police at Egoda Uyana in 1932⁶⁴—a discretion exercised against local wishes. He refused to act on the recommendation of the Executive Committee.⁶⁵ When the member for Moratuwa moved under Standing Order 32, he agreed only to postpone the collection of charges from the inhabitants.⁶⁶

In general he acted in consonance with the wishes of local representatives. As the Chief Secretary remarked "where the Governor is acting in the exercise of a statutory function and he takes the advice of an Executive Committee (instead of as he used to do of the Executive Council) normally he is guided by the advice of that Committee".⁶⁷

61. Papers laid before the State Council of Ceylon (1931), p. 142.

62. *Ibid.* (1931), p. 143.

63. Hansard (1934), p. 2827.

64. Hansard (1932), p. 645.

65. Papers laid before the State Council of Ceylon (1932), p. 128.

66. *Ibid.* (1932), p. 131.

67. Hansard (1932), pp. 807-808.

In fact there are instances where the Governor acted on the advice of an Executive Committee in matters placed expressly in his hands. Railway Rates was a subject for the Financial Secretary.⁶⁸ In 1932 when the Executive Committee for Communications and Works recommended an increase, he accepted the proposal.⁶⁹

The Governor's Reserve powers were a living system. It is interesting to find out on whom he depended when decisions were demanded. A suggestion came from a Ministerial quarter that in exercising his reserve powers the Governor consulted the Officers of State and not the Ministers.⁷⁰ That view was endorsed by Mr. G. C. S. Corea (sometime an Acting Minister) when he said "The action of the Governor is, I make bold to say, at all times, dependent more, I might say almost entirely on the advice of the Officers of State than on the advice of the Board of Ministers".⁷¹ Of course, this was contested. Mr. Villiers, once urged, that the Governor assured that he never consulted the State Officers over Heads of Ministers except in such matters as are connected with their portfolios or where their administration runs parallel to the Ministers.⁷² After all, subjects like the Public Service and Finance pervade every sphere of Governmental activity.

Whomsoever he may have depended upon, the more important question is his attitude and approach to his own powers. Was he an executive body? In the reserved sphere he was. But what of the transferred sphere? It is perhaps a question on which difference of opinion is possible. There is the patent fact that in executive matters he rarely dissented from the advice of Ministers or their Executive Committees. Quite clearly his powers of certification over finance was an instrument for discharging his responsibilities under the reserved sphere. It is also true that for the whole period of five years, only one Bill was refused assent by the King in Council on its being reserved by the Governor.

None-the-less he thought it fit to legislate against local wishes in connection with the salary levy on Public Servants and the Income Tax Ordinance. Perhaps, also, the fewness of the occasions on which reservation was necessary speaks not so much of the Governor's consideration as the moderation of the Board of Ministers. Government rarely sponsored bills conflicting with

68. Statement of Administration Procedure, 1931.

69. Hansard (1933), p. 636.

70. Hansard (1933), p. 2702.

71. Hansard (1933), p. 820.

72. Hansard (1933), p. 2575.

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Royal Instructions. Where they did, the reserve powers were applied. Consultation also proceeded Legislative proposals. Compromise was reached before formal decisions were arrived.⁷³

The answer to the question is perhaps more simple than that. The Governor was an Imperial Officer. His function was to see that matters affecting interests wider than merely local, were not resolved in a manner prejudicial to the United Kingdom. Under those circumstances whether an action was executive or supervisory was largely academic.

I. D. S. WEERAWARDANA

73. Before the budget of 1932-33 was presented, consultations between the Board of Ministers, Governor and Secretary of State resulted in the latter accepting certain proposals of the former. Whitehall however dissented from the proposals affecting commuted pensions and passage allowances and holiday warrants.

APPENDIX I.

SUBJECTS UNDER OFFICERS OF STATE

Chief Secretary :

External Affairs.
Emigration, Immigration, and Repatriation.
Extradition, and fugitive offenders.
Maldivo Islands.
Aliens.
Consuls.
Passports.
Commercial Treaties.
Merchant Shipping.
Wrecks.
Salvage.
Light Houses and Beacons.
Public Service.
Leave to Public Officers.
Government Quarters.
Office Accommodation.
Government Archives, Records prior to 1931.
Manual of Procedure.
Naval and Military Matters.
Ceylon Defence Force.
Camps.
Aviation (in relation to defence, amendment of 27-4-38).
War Graves.

Legal Secretary :

Legal Advice to the Government.
Administration of Justice.
Criminal Prosecutions and Civil Proceedings on behalf of the Crown.
Elections to the State Council.
Drafting of Legislation.
Functions of the Public Trustee.

Financial Secretary :

Financial Records.
Cash and Bank Balances.
Receipt and disbursement of Public Money.
Imprests advances deposits and suspense accounts.
Superintendence of financial methods and accounts of all departments.
Communication of financial sanctions to departments including sanctioned estimates of works.
Losses of Public Money.

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Investments.

Public Debt.

Currency.

Exchange.

Correspondence with Crown Agents and other agents on financial business.

Financial Regulations.

Taxation and revenue generally including *railway rates and fares* and other payments to government for services rendered.

Sale of gifts of government property not provided for by law or regulation.

Supply :

Annual and Supplementary Estimates.

Contracts.

The Board of local loans and Development Commissioners.

The Loan Board.

The Ceylon Savings Bank.

The State Mortgage Bank.

Stores and Printing :

Supervision and control of stores purchases, stores accounts, custody of stores and store-keeping regulations in all Departments.

Losses and depreciation of stores.

Stationery and Office Furniture.

Government Stores.

Government Press.

Establishments :

Salaries, Wages, Allowances, Remuneration and Fees of Government Employees.

Travelling regulations.

Expenses of jurors, witnesses and unofficial members of boards, commissions, etc.

Leave regulations.

Passages of government officers.

Holiday Warrants.

Railway passes and concession tickets.

Season tickets for government employees.

Regulations regarding advances of government servant's salaries.

Cadres of staffs.

Security of Public officers.

Pensions.

Widows and Orphans Pensions.

Provident and other Funds of Public Servants.

Estate Duty and Stamps.

Valuation on behalf of the Government.

Departmental estimates of Auditor-General.

Income Tax (since 19-4-32).

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APPENDIX II.

SUBJECTS ASSIGNED TO EXECUTIVE COMMITTEES

Ex. Com. of Home Affairs :

Police and Crime.	Traffic control and temporary closing of thoroughfares for such.
Vagrancy.	Public ceremonial, decoration of public places, public entertainment.
Prevention of cruelty to children.	Public Holidays.
Nuisances (including insanitary nuisance).	Regulation of private printing presses.
Gaming and Wagers.	Regulation of books published in Ceylon.
Prevention of cruelty to animals.	Treasure Trove.
Wild animals in captivity.	Religious Associations and Temporalities.
Trespass by domestic animals.	Prisons.
Public meetings.	Reformatories.
Fairs of Exhibition.	Probation officers.
Festivals.	Training School for youthful.
Pilgrimages.	Excise.
Processions.	Local option.
Firearms.	Functions of Government Analyst.
Fireworks.	
Explosives.	
Petroleum.	

Ex. Com. of Agriculture :

Crown Lands generally.	Botanical Gardens.
Alienation, reservation and development of Crown Land.	Soil Erosion.
Settlement of Crown Land.	Plant Pests.
Colonization.	Licenses for Produce.
Registration of title to land.	Food Protection.
Crown Forests.	Co-operative Societies.
Wild Game.	Veterinary Services.
Game Sanctuaries.	Animal diseases and quarantine.
Flora and Fauna.	Cattle Branding.
Irrigation.	Cattle Vouchers.
Cultivation Regulations.	Registration and Licensing of Animals.
Irrigation rates, flood protection.	Stables and Galas.
Surveying.	Government Dairies (11-12).
Meteorology.	Development of Agriculture Marketing (22-4-37).
Agriculture.	Dried Meat (15-11-41).
Agriculture and Hortic. Research work.	

Ex. Com. of Local Administration :

Local Government including :—	Mines.
Local Government Board.	Minerology.
Municipalities.	Gemming.
District Councils.	Quarrying.
Boards of Improvement.	Sand.
Local Boards.	Royalties on Minerals.
Boards of Health.	Fisheries.
Sanitary Boards.	Destruction of Dogs (9-12-37).

THE GOVERNOR'S RESERVE POWERS

<p>Road Courts. Village Courts. Police Rates. Registration of Vehicles. Sites for Monuments. Acquisition of Land for public purposes. Censorship of cinemas and public performances. Salt.</p>	<p>Registrating and Licensing of animals (9-12-37). Motor Cars and Motor Transport including Registration. Licenses. Certificate of Competence. Insurance against third party risks. Use of motor cars on highways (20-7-39).</p>
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Ex. Com. of Health :

<p>Medical Services :— Hospitals. Asylums. Maternity Homes. Dispensaries. Nurses and Midwives. Hospital Visitors. Medical Charitable Institutions. Sale of Opium and control of dangerous drugs. Medical Education and Research. Professions of Medicine, Dentistry and Pharmacy. Sanitary Services :— Health Education. Social Hygiene. Maternity and Child Welfare.</p>	<p>Medical Inspection of Schools. Health Units. Insanitary Nuisances. Epidemics and Endemic Diseases. Cemetaries and disposal of the dead. Pharmacies and drug stores. Food and Food handling establishments. Dangerous and Offensive trades. Laundries and Public bathing places. Dairies other than Government Dairies. Wells and pits. Latrines ; Sanitary Engineering (Water Supplies sewage disposal, drainage &c. Housing of poor classes. Indigenous medicines. Quarantine (12-13).</p>
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Ex. Com. of Labour, Industry and Commerce :

<p>Industrial Welfare. Industrial Associations. Industrial Disputes. Conditions, wages and hours of work of Labour including Indian Labour. Inspection of Factories and working places and protection and safeguarding workers. Registration of domestic servants. Social Insurance. Poor Relief. Charitable Institutions other than medical and educational. Unemployment. Food Control in Emergencies. Commerce generally. Overseas Trade. Trade Exhibitions. Representation of Ceylon Trade Abroad. Incorporation and Registration of Associations and Commercial Co's. Copyright.</p>	<p>Patents. Trade Marks. Business names. Weights and Measures. Registration of deeds and other commercial documents. Registration of births, deaths and marriages. Vital and other statistics. Census. Book. Ceylon Manual. Amalgamated Annual General Report on Ceylon. Workmen's Compensation. Control of Commodities in emergencies or to prevent profiteering. Publicity. Development and Control of Industries. Registration of Accountants. (12-10-38). Cheetus.</p>
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Ex. Com. of Education :

Education of Primary, Secondary and Technical Schools.	Translations from and into the Vernacular Languages.
Training Colleges and Teachers.	Conduct of Examinations for the Public Services.
Education District Courts.	University Education.
Art Gallery.	Museums.
Cottage Industries.	Science Journals.
Crafts.	Archaeology and Palaeography.
School Gardens.	
Vernacular Languages.	

Ex. Com. of Communication and Works :

Public Works.	Harbour Oil Installations other than those belonging to the Admiralty.
Government Roads and Buildings.	Posts.
Inland Waterways.	Telegraphs.
Tolls.	Telephones.
Thoroughfare Reservations and Encroachments.	Cables.
Closing of roads owing to impossibility.	Wireless.
Proclamation of thoroughfares for various grades of traffic.	State Telegrammes.
Protection of Government buildings from fire.	Authority to frank official letters.
Government Railways.	Post Office Savings Banks.
Electrical Undertakings.	Ceylon Savings Certificates, 12-10-38. (13-14).
Ports.	Civil Aviation, 27-4-38.

APPENDIX III.

TYPES OF BILLS WHICH THE GOVERNOR WAS OBLIGED TO RESERVE UNDER THE ROYAL INSTRUCTIONS

Except in accordance with the provisions of the second sub-clause of this clause, the Governor shall not assent in Our name to any Bill falling within any of the following classes :—

- (1) Any Bill for the divorce of persons joined together in holy matrimony.
- (2) Any Bill whereby any grant of land or money or other donation or gratuity may be made to himself.
- (3) Any Bill whereby the rights or privileges of public servants may be prejudiced.
- (4) Any Bill affecting the currency of the Island or relating to the issue of Bank Notes.
- (5) Any Bill establishing any Banking Association, or amending or altering the constitutions, powers or privileges of any Banking Associations.
- (6) Any Bill whereby in the opinion of the Governor the financial stability of the Island may be endangered.
- (7) Any Bill imposing differential duties.

THE GOVERNOR'S RESERVE POWERS

- (8) Any Bill the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty.
- (9) Any Bill interfering with the discipline or control of Our Forces by land or sea or air.
- (10) Any Bill relating to questions of defence or public security, or any matter affecting naval military or air forces or volunteer corps or the control of aerial navigation or aircraft or the transport or means of communication of naval, military or air forces.
- (11) Any Bill of any extraordinary nature and importance whereby Our prerogative or the rights and property of Our subjects not residing in the Island or the trade and shipping of any parts of Our dominions may be prejudiced.
- (12) Any Bill relating to or affecting trade outside the Island or docks, harbours, shipping or any lands building or other matters of naval military or aerial interests or of Imperial concern.
- (13) Any Bill whereby persons of any particular community or religion are made liable to any disabilities or restrictions to which persons of other communities or religions are not also subjected or made liable or are granted advantages not extended to persons of other communities or religions.
- (14) Any Bill diminishing or prejudicing any of the rights or privileges to which at the date of these Our instructions persons emigrating or who have emigrated to the Island from India may be entitled by reason of such emigration.
- (15) Any Bill the principle of which has evoked serious opposition by any racial religious or other minority and which in the opinion of the Governor is likely to involve oppression or unfairness to any such minority.
- (16) Any Bill relating to or affecting the administration of justice in the island.
- (17) Any Bill containing provisions to which Our assent has been once refused or which have been disallowed by Us.

Note.—The second sub-clause enacted that the Governor may assent to a bill falling within any of the above classes provided—

- (1) the prior assent of the Secretary of State was obtained or
- (2) a suspending clause was included till His Majesty's pleasure was obtained, or
- (3) in case of emergency, if the bill was not repugnant to the law of England or Treaty obligations. In latter case (3) the Governor was to submit the bill to the King with his reasons for assenting.